

Judge Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRACY DAMON LEE,

Defendant.

NO. CR06-0164JLR

ORDER GRANTING THE
DEFENSE REQUEST TO
CONTINUE TRIAL DATE

THE COURT having considered the defendant's request to continue the trial date and the defendant's agreement to extend the time for trial to November 13, 2006 (in open court and through a written waiver), as well as the records and files herein, hereby makes the following findings of fact:

1. That the defense believes the testimony of the fingerprint examiner who lifted the latent print from the firearm, which was later matched to one of the defendant's fingerprints, is a critical witness to the defense because she is expected to testify regarding the exact location of the fingerprint on the firearm and its direction. The defense believes that this testimony is consistent with, and supports, their version of the events and their explanation for how the defendant's fingerprint was placed on the firearm. This witness is responsible for, and will be, conducting an out-of-state training the week during which the trial is currently scheduled.

2. That the defense believes that the government's disclosure that it would not introduce the defendant's taped statement to the detective, as previously anticipated, has

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1 changed the landscape of the case. As a result of the government's decision, the
2 defendant would now have to take the stand in order to get his version of the events
3 before the jury. The defendant believes it needs additional time to prepare and to decide
4 whether or not to testify in light of this unexpected development. The additional time is
5 required for essentially two reasons. First, the defendant must consider his prior
6 convictions and their possible use as impeachment at trial before deciding whether or not
7 to testify. Second, and most importantly, the defense needs additional time to finish
8 listening to the defendant's taped phone conversations. There are, at a minimum, a
9 couple hundred phone conversations, contained on 43 separate compact discs, some of
10 which the government has advised they intend to use to impeach the defendant should he
11 testify at trial.

12 3. The Court finds that a failure to grant a continuance of the current trial date
13 (to October 16, 2006) would deny the defendant and his counsel, the reasonable time
14 necessary for effective preparation, taking into account the exercise of due diligence,
15 within the meaning of 18 U.S.C. § 3161(h)(8)(B)(ii).

16 4. The Court further finds that the ends of justice will be served by ordering a
17 continuance in this case and that a continuance is necessary to insure effective trial
18 preparation and that these factors outweigh the best interests of the public in a more
19 speedy trial within the meaning of 18 U.S.C. § 3161(h)(8)(A).

20 IT IS THEREFORE ORDERED that the trial date be continued from October 16,
21 2006, to November 7, 2006.

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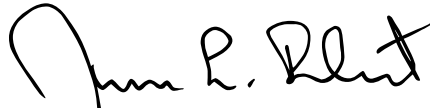
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1 IT IS FURTHER ORDERED that the period of time from October 16, 2006, up to
2 and including the new trial date November 13, 2006, shall be excludable time pursuant to
3 the Speedy Trial Act, 18 U.S.C. §§ 3161, *et. seq.*

4 DONE this 16th day of October, 2006.

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9 JAMES L. ROBERT
10 United States District Judge

11 Presented by:

12
13 s/ C. Andrew Colasurdo
14 C. ANDREW COLASURDO
15 Special Assistant United States Attorney
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27
28 s/ Walter Palmer (per telephonic approval)
WALTER PALMER
Attorney for Tracy Damon Lee

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